

Panaji, 18th July, 1981 (Asadha 27, 1903)

SERIES I No. 16



OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

EXTRAORDINARY

GOVERNMENT OF GOA, DAMAN AND DIU

Law Department (Legal Advice)

Notification

7/1/80-LGL

The following Central Acts namely:—1) The Auroville (Emergency Provisions) Act, 1980 (59 of 1980); 2) the Monopolies and Restrictive Trade Practices (Amendment) Act, 1980 (60 of 1980); 3) The Code of Criminal Procedure (Amendment) Act, 1980 (63 of 1980); 4) The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980 (61 of 1980); 5) The National Security Act, 1980 (65 of 1980); 6) The Payment of Bonus (Second Amendment) Act, 1980 (66 of 1980); 7) The Maruti Limited (Acquisition and Transfer of Undertakings) Act, 1980 (64 of 1980); 8) The Hind Cycles Limited and Sen Raleigh Limited (Nationalisation) Act, 1980 (70 of 1980) and 9) The Forest (Conservation) Act, 1980 (69 of 1980) which were recently passed by the Parliament and assented to by the President of India and published in the Gazette of India, Part II, Section I are hereby republished for general information of the public.

B. S. Subbanna, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 16th February, 1981.

The Auroville (Emergency Provisions) Act, 1980

AN

ACT

to provide for the taking over, in the public interest, of the management of Auroville for a limited period and for matters connected therewith or incidental thereto.

Whereas Sri Aurobindo Society, a non-governmental organisation had been a channel of funds for

the setting up of a cultural township known as Auroville, where people of different countries are expected to live together in harmony in one community and are expected to engage in cultural, educational, scientific and other pursuits aiming at human unity;

And Whereas the United Nations Educational, Scientific and Cultural Organisation (hereinafter referred to as 'UNESCO'), being of the opinion that the project aforesaid would contribute to international understanding and promotion of peace, by a resolution passed in 1966, commended Auroville to those interested in UNESCO's ideals;

And Whereas by a further resolution passed in 1968, the UNESCO had invited its member-States and international non-governmental organisations to participate in the development of Auroville as an international cultural township designed to bring together the values of different cultures and civilisations in a harmonious environment with integrated living standards which correspond to man's physical and spiritual needs;

And Whereas by a further resolution passed at its sitting held from the 12th October to 14th November, 1970, the UNESCO had directed its Director-General to take such steps as may be feasible, within the budgetary provisions, to promote the development of Auroville as an important international cultural programme;

And Whereas Auroville was developed as a cultural township with the aid of funds received from different organisations in and outside India as also from the substantial grants received from the Central and State Governments;

And Whereas pursuant to the complaints received with regard to the misuse of funds by Sri Aurobindo Society, a Committee was set up under the chairmanship of the Lieutenant-Governor of Pondicherry with representatives of the Government of Tamil Nadu and of the Ministry of Home Affairs in the Central Government, and the said Committee had, after a detailed scrutiny of the accounts of Sri Aurobindo Society, found instances of serious irregularities in the management of the said Society, misutilisation of its funds and their diversion to other purposes;

And Whereas in view of the serious difficulties which have arisen with regard to the management of Auroville, it is necessary to take over, for a limited period, the management thereof and any delay in taking over the management of Auroville would be highly detrimental to the interests and objectives of Auroville;

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title and commencement. — (1) This Act may be called the Auroville (Emergency Provisions) Act, 1980.

(2) It shall be deemed to have come into force on the 10th day of November, 1980.

2. Definitions. — In this Act, unless the context otherwise requires, —

(a) "Administrator" means the Administrator appointed under section 5;

(b) "appointed day" means the 10th day of November, 1980;

(c) "Auroville" means so much of the undertakings as form part of, or are relatable to, the cultural township which is known as Auroville and the charter of which was proclaimed by the 'Mother' on the 28th day of February, 1968;

(d) "Council" means the 'Auroville International Advisory Council' constituted under sub-section (1) of section 6;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "Society" means Sri Aurobindo Society being a society as defined in the West Bengal Societies Registration Act, 1961, and having its registered office at Calcutta;

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of 1961.

(g) words and expressions used herein and not defined, but defined in the Societies Registration Act, 1860, shall have the meanings, respectively, assigned to them in that Act.

21 of 1860.

CHAPTER II

Taking Over of the Management of Auroville

3. Management of Auroville to vest in the Central Government for a limited period. — (1) On and from the appointed day and for a period of two years thereafter, the management of Auroville shall vest in the Central Government:

Provided that where the Central Government is of opinion that in order to secure the proper management of Auroville, it is expedient that such management should continue to vest in that Government after the expiry of the said period of two years, it may, from time to time, issue directions for the continuance of such management for such period, not exceeding one year at a time, as it may think fit; so, however, that the total period for which such management shall continue to vest in the Central Government shall not, in any case, exceed five years.

(2) Auroville shall be deemed to include all the assets, rights, leaseholds, powers, authorities and privileges, and all property (movable and immovable), including lands, buildings, works, workshops, projects, stores, instruments, machinery, automobiles and other vehicles, cash balances, funds, including reserve funds, investments and book debts of the Society as form part of, or are relatable to Auroville and all other rights and interests arising out of such properties as were immediately before the appointed day in the ownership, possession, power or control of the Society, whether within or without India, and all books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

4. Application of West Bengal Act XXVI of 1961.

— (1) Notwithstanding anything contained in any other law for the time being in force or in the memorandum or the rules and regulations of the Society, —

(a) on and from the appointed day, every member of the Governing Body of the Society, by whatever name called, shall cease to exercise any powers of management in relation to Auroville;

(b) it shall not be lawful for the members of the Society or any other person to nominate or appoint any person as Manager or Director of so much of the assets of the Society as form part of, or are relatable to, Auroville;

(c) no resolution in relation to Auroville passed at any meeting of the members of the Society or of the members of Auroville shall be given effect to unless it is approved by the Central Government;

(d) no proceeding for the dissolution of the Society or merger of the Society with any other society or for the appointment of a receiver in respect of any asset forming part of, or relatable to, Auroville, the management of which has vested in the Central Government under section 3, shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1) and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf for the purposes of this Act, the provisions of the West Bengal Societies Registration Act, 1961, shall continue to apply to the Society in the same manner as they applied thereto before the appointed day.

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of 1961.

5. Administrator of Auroville. — (1) The Central Government shall, as from the appointed day, appoint a person or a body of persons as the Administrator for the purpose of taking over the management of Auroville and the Administrator shall carry on the management of Auroville for and on behalf of the Central Government.

(2) The Administrator may authorise such person as he thinks fit also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise diffe-

rent powers, and subject to the general or special directions given or imposed by the Administrator, the person so authorised to exercise any powers of the Administrator may exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by way of authorisation.

(3) If, on the appointed day, any suit, appeal or other proceeding, of whatever nature, in relation to any property which has vested in the Central Government under section 3, instituted or preferred by or against the Society is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the taking over of the management of Auroville or of anything contained in this Act but the suit, appeal or other proceeding may be pursued, prosecuted or enforced by or against the Central Government.

(4) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Administrator, as to his powers and duties as that Government may deem desirable and the Administrator may apply to the Central Government at any time for instructions as to the manner in which he shall conduct the management of Auroville or in relation to any matter arising in the course of such management of Auroville or in relation to any matter arising in the course of such management.

(5) Subject to the other provisions of this Act and to the control of the Central Government, the Administrator shall be entitled, notwithstanding anything contained in the West Bengal Societies Registration Act, 1961, or in any other law for the time being in force, to exercise, in relation to Auroville, the powers of the Governing Body or Executive Committee or, as the case may be, of the Board of Trustees of the Society, including the powers to dispose of any property or assets of the Society, whether such powers are derived from the West Bengal Societies Registration Act, 1961, or from the memorandum and rules and regulations, of the Society or from any other source.

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of 1961.

(6) The Administrator and the other persons authorised by him under sub-section (2) shall receive from the funds of the Society relating to Auroville such remuneration as the Central Government may fix.

6. Advisory Council.—(1) As soon as may be after the commencement of this Act and in any case within one month from such commencement, the Central Government shall constitute, by notification in the Official Gazette, a Council to be called the 'Auroville International Advisory Council'.

(2) The Council may on its own motion or on a reference made to it by the Central Government advise the Central Government on any matter concerning the management of Auroville.

(3) In tendering any advice to the Central Government, the Council shall endeavour to secure that—

(a) the ideals for which Auroville has been established are encouraged, and

(b) the members of Auroville are allowed freedom to grow and develop activities and institutions for the fulfilment of the aspirations and programmes envisaged in the Charter of Auroville.

(4) The Council shall consist of such number of members not exceeding five as may be appointed by the Central Government from amongst persons, who in its opinion are devoted to the ideals of human unity, peace and progress.

(5) There shall be a Chairman of the Council who shall be elected by the members of the Council from among themselves.

(6) The term of office of, the method of filling casual vacancies among, and the allowances and other remuneration, if any, payable to, the members of the Council shall be such as may be prescribed.

(7) The Council shall, subject to any rules that may be made in this behalf under section 17, have power to regulate its own procedure.

7. Delivery of possession of properties of Auroville.—(1) Every person having, on the appointed day, in his possession, custody or control any property forming part of, or relating to, Auroville, shall deliver forthwith such property to the Administrator or to any officer or other employee of the Central Government as may be authorised by the Central Government in this behalf.

(2) Any person who has, on the appointed day, in his possession or under his control any books, papers or other documents relating to Auroville (including the minutes books containing resolutions in relation to Auroville adopted by persons in charge of the management of the Society before the appointed day), the current cheque books relating to Auroville, any letters, memoranda, notes and other communications between him and the Society, shall, notwithstanding anything contained in any other law for the time being in force, be liable to account for the books, papers and other documents (including such minutes books, cheque books, letters, memoranda, notes and other communications) to the Administrator or to such person (being an officer or other employee of the Central Government) as may be authorised by the Central Government in this behalf.

(3) Every person in charge of the management of Auroville immediately before the appointed day shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Administrator a complete inventory of all the properties and assets (including particulars of donations received, book debts, investments and belongings) forming part of, or relating to, Auroville immediately before the appointed day and all liabilities and obligations of the Society in relation to Auroville subsisting immediately before that day and also of all agreements entered into by the Society in relation to Auroville and in force immediately before the appointed day.

8. Relinquishment of management before the specified period.—(1) If at any time it appears to the Central Government that the purposes for which the management of Auroville had been taken over

have been fulfilled or that for any other reason it is not necessary that the management of Auroville should remain vested in that Government, it may, notwithstanding anything contained in sub-section (1) of section 3, by order published in the Official Gazette, relinquish the management of Auroville with effect from such date as may be specified in the order.

(2) On and from the date specified in the order made under sub-section (1), the management of the property of the Society forming part of, or relatable to, Auroville, shall vest in the Governing Body (by whatever name called) of the Society and such management shall be carried on in accordance with the provisions of the West Bengal Societies Registration Act, 1961, so, however, that the steps, if any, in relation to the management of the property of the Society forming part of, or relatable to, Auroville, may be taken after the publication of the order made under sub-section (1).

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9. Tribunal.—(1) If any dispute or doubt arises as to whether any asset, right, lease-hold, power, authority, privilege, property (whether movable or immovable) including any land, building, works, workshop, project, stores, instruments, machinery, automobile or other vehicles, cash, balances, funds (including reserve funds), investments and book debts forms or form part of, or is or are relatable to, Auroville for the purposes of section 3, such dispute or doubt shall, at the request of the Society or the Administrator or any other person interested or at the instance of the Central Government, be referred to a Tribunal consisting of one member (being a person who is or has been a Judge of a High Court) to be appointed by the Central Government.

(2) The Tribunal shall, for the purposes of any reference under sub-section (1), have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents producible as evidence;
- (c) recording evidence on oath;
- (d) requisitioning any public record from any court or office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) such other matters as may be prescribed.

(3) The Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions (including the place or places at which it shall hold its sittings).

(4) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund in India.

10. Appeal.—Any person aggrieved by the decision of the Tribunal under section 9 may, within

thirty days from the date of such decision, prefer an appeal to the High Court at Madras and such appeal shall be heard and disposed of by not less than two Judges of that High Court:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period aforesaid.

CHAPTER III

Miscellaneous

11. Act to have overriding effect.—The provisions of this Act or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court.

12. Contracts, etc., cease to have effect unless ratified by the Central Government.—(1) Every contract (including any contract of employment or other arrangement) entered into by the Society in relation to Auroville, the management of which has vested in the Central Government under section 3, and in force immediately before the appointed day, shall, on and from the date of expiry of ninety days from the appointed day, cease to have effect unless such contract or other arrangement has been, before the expiry of that period, ratified, in writing, by the Central Government; and in ratifying such contract or other arrangement, the Central Government may make such alterations or modifications therein as it may think fit:

Provided that the Central Government shall not omit to ratify any contract or other arrangement and shall not make any alteration or modification therein—

(a) unless it is satisfied that such contract or other arrangement is unduly onerous or has been entered into in bad faith or is detrimental to the interests of Auroville; and

(b) except after giving the parties to the contract or other arrangement a reasonable opportunity of being heard and except after recording, in writing, its reasons for refusal to ratify the contract or other arrangement or for making any alteration or modification therein.

(2) Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract or other arrangement is terminated, altered or modified under sub-section (1), or who ceases to exercise any powers or hold any office by reason of any provision contained in sub-section (1) of section 4, shall be entitled to claim any compensation for the premature termination of the contract or other arrangement or for any alteration or modification therein or for the loss of his powers of office.

13. Exclusion of period of operation of Act.—In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by the Society in respect of any matter arising out of any transaction relating to Auroville, the time during which this Act is in force shall be excluded.

14. Protection of action taken in good faith. —

(1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or the Administrator or any person authorised under sub-section (2) of section 5 by the Administrator for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or the Administrator or any person authorised under sub-section (2) of section 5 by the Administrator for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

15. Penalties. — Any person who, —

(a) having in his possession or custody or control any asset or property forming part of, or relating to, Auroville, wrongfully withholds such property from the Administrator or any person authorised under this Act, or

(b) wrongfully obtains possession of any such asset or property forming part of, or relating to, Auroville, or

(c) wilfully retains any asset or property forming part of, or relating to, Auroville, or removes or destroys it, or

(d) wilfully withholds or fails to deliver any books, papers or other documents relating to Auroville which may be in his possession or custody or under his control to the Administrator or any person authorised under this Act, or

(e) fails, without any reasonable cause, to furnish any inventory of properties and assets as provided in sub-section (3) of section 7, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

16. Offences by companies. — (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. — For the purposes of this section, —

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

17. Power to make rules. — (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(a) the term of office of, the method of filling casual vacancies among, and the allowances and other remuneration, if any, payable to, the members of the Council under sub-section (6) of section 6;

(b) the additional matters in respect of which the Tribunal shall have the powers of a civil court under clause (f) of sub-section (2) of section 9; and

(c) any other matter which is required to be, or may be, prescribed, or in respect of which rules may be made, under this Act.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

18. Repeal and saving. — (1) The Auroville (Emergency Provisions) Ordinance, 1980 is hereby repealed.

19 of 1980.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

The Monopolies and Restrictive Trade Practices (Amendment) Act, 1980

AN

ACT

further to amend the Monopolies and Restrictive Trade Practices Act, 1969.

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows: —

1. Short title and commencement. — (1) This Act may be called the Monopolies and Restrictive Trade Practices (Amendment) Act, 1980.

(2) It shall be deemed to have come into force on the 13th day of October, 1980.

2. Amendment of section 2.—In section 2 of the Monopolies and Restrictive Trade Practices Act, 1969 (hereinafter referred to as the principal Act),—

(i) in clause (d), after *Explanation VI*, the following *Explanation* shall be inserted, namely:—

“Explanation VII.—Where goods of any description produced in India by an undertaking have been exported to a country outside India, then the goods so exported shall not be taken into account in computing for the purposes of this clause—

(i) the total goods of that description that are produced in India by that undertaking; or

(ii) the total goods of that description that are produced, supplied or distributed in India or any substantial part thereof;”;

(ii) in clause (j), after *Explanation IV*, the following *Explanation* shall be inserted, namely:—

“Explanation V.—Where goods of any description produced in India by an undertaking have been exported to a country outside India, then the goods so exported shall not be taken into account in computing for the purposes of this clause—

(i) the total goods of that description that are produced in India by that undertaking; or

(ii) the total goods of that description that are produced, supplied or distributed in India or any substantial part thereof;”.

3. Repeal and saving.—(1) The Monopolies and Restrictive Trade Practices (Amendment) Ordinance, 1980 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

The Code of Criminal Procedure (Amendment) Act, 1980

AN

ACT

further to amend the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1980.

(2) It shall be deemed to have come into force on the 23rd day of September, 1980.

2. Amendment of sections 108, 109 and 110.—In sections 108, 109 and 110 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), for the words “a Judicial Magistrate of the first class”, the words “an Executive Magistrate” shall be substituted.

3. Amendment of section 196.—In section 196 of the principal Act,—

(a) in sub-section (1), in clause (a), for the words, figures and letters “section 153B, section 295A or section 505”, the words, figures, letter and brackets “section 295A or sub-section (1) of section 505” shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) No court shall take cognizance of—

(a) any offence punishable under section 153B or sub-section (2) or sub-section (3) of section 505 of the Indian Penal Code, or

(b) a criminal conspiracy to commit such offence,

except with the previous sanction of the Central Government or of the State Government or of the District Magistrate.”;

(c) in sub-section (3), for the words, brackets and figure “under sub-section (1)”, the words, brackets, figures and letters “under sub-section (1) or sub-section (1A) and the District Magistrate may, before according sanction under sub-section (1A)” shall be substituted.

4. Amendment of section 436.—In section 436 of the principal Act, in sub-section (1), in the second proviso, after the word and figures “section 116”, the words, figures and letter “or section 446A” shall be inserted.

5. Amendment of section 437.—In section 437 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but—

(i) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(ii) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a non bailable and cognizable offence;

Provided that the Court may direct that a person referred to in clause (i) or clause (ii)

be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm:

Provided further that the Court may also direct that a person referred to in clause (ii) be released on bail if it is satisfied that it is just and proper so to do for any other special reason:

Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court.”;

(b) in sub-section (2), for the words “the accused shall, pending such inquiry, be released on bail”, the words, figures and letter “the accused shall, subject to the provisions of section 446A and pending such inquiry, be released on bail” shall be substituted;

(c) in sub-section (4), for the word “reasons”, the words “reasons or special reasons” shall be substituted.

6. Amendment of section 446.—In section 446 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

“Provided that where such penalty is not paid and cannot be recovered in the manner aforesaid, the person so bound as surety shall be liable, by order of the Court ordering the recovery of the penalty, to imprisonment in civil jail for a term which may extend to six months.”.

7. Insertion of new section 446A.—After section 446 of the principal Act, the following section shall be inserted, namely:—

“446A. Cancellation of bond and bail-bond—Without prejudice to the provisions of section 446, where a bond under this Code is for appearance of a person in a case and it is forfeited for breach of a condition—

(a) the bond executed by such person as well as the bond, if any, executed by one or more of his sureties in that case shall stand cancelled; and

(b) thereafter no such person shall be released only on his own bond in that case, if the Police Officer or the Court, as the case may be, for appearance before whom the bond was executed, is satisfied that there was no sufficient cause for the failure of the person bound by the bond to comply with its condition:

Provided that subject to any other provision of this Code he may be released in that case upon the execution of a fresh personal bond for such sum of money and bond by one or more of such sureties as the Police Officer or the Court, as the case may be, thinks sufficient.”.

8. Substitution of new section for section 478.—For section 478 of the principal Act, the following section shall be substituted, namely:—

“478. Power to alter functions allocated to Executive Magistrates in certain cases.—If the Legis-

lative Assembly of a State by a resolution so permits, the State Government may, after consultation with the High Court, by notification, direct that references in sections 108, 109, 110, 145 and 147 to an Executive Magistrate shall be construed as references to a Judicial Magistrate of the first class.”.

9. Consequential Amendment of Act 34 of 1978.—Section 72 of the Delhi Police Act, 1978 shall be omitted.

10. Saving of pending proceedings under sections 108, 109 and 110.—All proceedings under sections 108, 109 and 110 of the principal Act, pending before any Judicial Magistrate of the first class immediately before the commencement of this Act shall, notwithstanding anything contained in this Act, be dealt with as if this Act had not been enacted.

11. Repeal and saving.—(1) The Code of Criminal Procedure (Amendment) Ordinance, 1980 is hereby repealed. 12 of 1980.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980

AN

ACT

to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980.

2. Amendment of section 2.—In the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter 40 of 1971, referred to as the principal Act), in section 2,—

(i) clause (a) shall be omitted, and for the words “corporate authority”, wherever they occur in the principal Act, the words “statutory authority” shall be substituted;

(ii) for clause (c), the following clause shall be substituted, namely:—

“(c) “public premises” means—

(1) any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government, and includes any such premises which have been placed by that Government, whether before or after the commencement of the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980, under the control of the Secretariat of either House of Parliament for

providing residential accommodation to any member of the staff of that Secretariat;

(2) any premises belonging to, or taken on lease by, or on behalf of, —

(i) any company as defined in section 3 of the Companies Act, 1956, in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government or any company which is a subsidiary (within the meaning of that Act) of the first-mentioned company, 1 of 1956.

(ii) any corporation (not being a company as defined in section 3 of the Companies Act, 1956, or a local authority) established by or under a Central Act and owned or controlled by the Central Government, 1 of 1956.

(iii) any University established or incorporated by any Central Act,

(iv) any Institute incorporated by the Institutes of Technology Act, 1961, 59 of 1961.

(v) any Board of Trustees constituted under the Major Port Trusts Act, 1963, 38 of 1963.

(vi) the Bhakra Management Board constituted under section 79 of the Punjab Reorganisation Act, 1966, and that Board as and when re-named as the Bhakra-Beas Management Board under sub-section (6) of section 80 of that Act; and 31 of 1966.

(3) in relation to the Union territory of Delhi. —

(i) any premises belonging to the Municipal Corporation of Delhi, or any municipal committee or notified area committee, and

(ii) any premises belonging to the Delhi Development Authority, whether such premises are in the possession of, or leased out by, the said Authority; ;

(iii) after clause (f), the following clause shall be inserted, namely: —

“(fa) “statutory authority”, in relation to the public premises referred to in clause (e) of this section, means, —

(i) in respect of the public premises placed under the control of the Secretariat of either House of Parliament, the Secretariat of the concerned House of Parliament,

(ii) in respect of the public premises referred to in item (i) of sub-clause (2) of that clause, the company or the subsidiary company, as the case may be, referred to therein,

(iii) in respect of the public premises referred to in item (ii) of sub-clause (2) of that clause, the corporation referred to therein,

(iv) in respect of the public premises referred to, respectively, in items (iii), (iv),

(v) and (vi) of sub-clause (2) of that clause, the University, Institute or Board, as the case may be, referred to therein, and

(v) in respect of the public premises referred to in sub-clause (3) of that clause, the Corporation, committee or Authority, as the case may be, referred to in that sub-clause;”.

3. Amendment of section 3. — In section 3 of the principal Act, —

(i) in clause (a), the word “and”, occurring at the end shall be omitted; and

(ii) to clause (a), the following provisos shall be added, namely: —

“Provided that no officer of the Secretariat of the Rajya Sabha shall be so appointed except after consultation with the Chairman of the Rajya Sabha and no officer of the Secretariat of the Lok Sabha shall be so appointed except after consultation with the Speaker of the Lok Sabha:

Provided further that an officer of a statutory authority shall only be appointed as an estate officer in respect of the public premises controlled by that authority; and”.

4. Amendment of section 4. — In section 4 of the principal Act, in sub-section (2), for clause (b), the following clause shall be substituted, namely: —

“(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the public premises, —

(i) to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than seven days from the date of issue thereof, and

(ii) to appear before the estate officer on the date specified in the notice along with the evidence which they intend to produce in support of the cause shown, and also for personal hearing, if such hearing is desired.”.

5. Amendment of section 5. — In section 5 of the principal Act, —

(i) in sub-section (1), for the words “any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard”, the words, brackets, letter and figures “any evidence produced by him in support of the same and after personal hearing, if any, given under clause (b) of sub-section (2) of section 4” shall be substituted;

(ii) in sub-section (2), —

(a) for the words, brackets and figure “within thirty days of the date of its publication under sub-section (1),”, the words, brackets and figure “on or before the date specified in the said order or within fifteen days of the date of its publication under sub-section (1), whichever is later,” shall be substituted;

(b) for the words “may evict that person”, the words “may, after the date so specified or after the expiry of the period aforesaid, whichever is later, evict that person” shall be substituted.

6. Insertion of new sections 5A and 5B — After section 5 of the principal Act, the following sections shall be inserted, namely: —

“5A. Power to remove unauthorised constructions, etc. — (1) No person shall —

(a) erect or place or raise any building or other structure or fixture,

(b) display or spread any goods,

(c) bring or keep any cattle or other animal, on or against, or in front of, any public premises except in accordance with the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy such premises.

(2) Where any building or other structure or fixture has been erected or any goods have been displayed or spread or any cattle or other animal has been brought on, any public premises in contravention of the provisions of sub-section (1), the estate officer may serve upon the person erecting such building or other structure or fixture or displaying or spreading such goods or bringing such cattle or other animal on the public premises, a notice requiring him either to remove, or to show cause why he shall not remove, such building, other structure or fixture, or, as the case may be, such goods or cattle or other animal from the public premises within such period, not being less than seven days, as he may specify in the notice; and on the omission or refusal of such person either to show cause, or to remove such building or other structure or fixture, or, as the case may be, such goods or cattle or other animal from the public premises, or, where the cause shown is not in the opinion of the estate officer, sufficient, the estate officer may remove the building or other structure or fixture, or, as the case may be, such goods or cattle or other animal from the public premises and recover the cost of such removal from the person aforesaid as an arrear of land revenue.

5B. Order of demolition of unauthorised construction. — (1) Where the erection of any building or execution of any work has been commenced, or is being carried on, or has been completed, on any public premises by any person in occupation of such public premises under an authority (whether by way of grant or any other mode of transfer), and such erection of building or execution of work is in contravention of, or not authorised by, such authority, then, the estate officer may, in addition to any other action that may be taken under this Act or in accordance with the terms of the authority aforesaid, make an order, for reasons to be recorded therein, directing that such erection or work shall be demolished by the person at whose instance the erection or work has been commenced, or is being carried on, or has been completed, within such period, as may be specified in the order, not being less than seven days, or more than fifteen days, from the date of publication of the order under sub-section (3):

Provided that no order under this sub-section shall be made unless the person concerned has been given, by means of a notice served in the

prescribed manner, a reasonable opportunity of showing cause why such order should not be made.

(2) Where the erection or work has not been completed, the estate officer may, by the same order or by a separate order, whether made at the time of the issue of the notice under the proviso to sub-section (1) or at any other time, direct the person at whose instance the erection or work has been commenced, or is being carried on, to stop the erection or work until the expiry of the period within which an appeal against the order of demolition, if made, may be preferred under section 9.

(3) The estate officer shall cause every order made under sub-section (1), or, as the case may be, under sub-section (2), to be affixed on the outer door, or some other conspicuous part, of the public premises.

(4) Where no appeal has been preferred against the order of demolition made by the estate officer under sub-section (1) or where an order of demolition made by the estate officer under that sub-section has been confirmed on appeal, whether with or without variation, the person against whom the order has been made shall comply with the order within the period specified therein, or, as the case may be, within the period, if any, fixed by the appellate officer on appeal, and, on the failure of the person to comply with the order within such period, the estate officer or any other officer duly authorised by the estate officer in this behalf, may cause the erection or work to which the order relates to be demolished.

(5) Where an erection or work has been demolished, the estate officer may, by order, require the person concerned to pay the expenses of such demolition within such time, and in such number of instalments, as may be specified in the order.”

7. Amendment of section 6. — In section 6 of the principal Act,—

(i) in sub-section (1), after the words and figure “Where any persons have been evicted from any public premises under section 5”, the words, figure and letter “or where any building or other work has been demolished under section 5B” shall be inserted;

(ii) after sub-section (1), the following sub-sections shall be inserted, namely: —

“(1A) Where any goods, materials, cattle or other animal have been removed from any public premises under section 5A, the estate officer may, after giving fourteen days’ notice to the persons owning such goods, materials, cattle or other animal and after publishing the notice in at least one newspaper having circulation in the locality, dispose of, by public auction, such goods, materials, cattle or other animal.

(1B) Notwithstanding anything contained in sub-sections (1) and (1A), the giving or publication of any notice referred to therein shall not be necessary in respect of any property which is subject to speedy and natural decay, and the estate officer may, after recording such evidence as he may think fit, cause such property to be sold or otherwise disposed of in such manner as he may think fit.”;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The expression “costs”, referred to in sub-section (2), shall include the cost of removal recoverable under section 5A and the cost of demolition recoverable under section 5B.”

8. Amendment of section 7.—In section 7 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) While making an order under sub-section (1) or sub-section (2), the estate officer may direct that the arrears of rent or, as the case may be, damages shall be payable together with simple interest at such rate as may be prescribed, not being a rate exceeding the current rate of interest within the meaning of the Interest Act, 1978.”

14 of 1978,

9. Amendment of section 9.—In section 9 of the principal Act,—

(i) in sub-section (1), for the word and figure “section 5”, the words, figures and letter “section 5 or section 5B” shall be substituted;

(ii) in sub-section (2),—

(a) in clause (a), for the words “within fifteen days”, the words “within twelve days” shall be substituted;

(b) in clause (b), for the words and figure “under section 7, within fifteen days”, the words, figures and letter “under section 5B or section 7, within twelve days” shall be substituted;

(c) in the proviso, for the words “said period of fifteen days”, the words “said period” shall be substituted;

(iii) to sub-section (3), the following proviso shall be added, namely:—

“Provided that where the construction or erection of any building or other structure or fixture or execution of any other work was not completed on the day on which an order was made under section 5B for the demolition or removal of such building or other structure or fixture, the appellate officer shall not make any order for the stay of enforcement of such order, unless such security, as may be sufficient in the opinion of the appellate officer, has been given by the appellant for not proceeding with such construction, erection or work pending the disposal of the appeal.”

10. Amendment of section 13.—In section 13 of the principal Act,—

(i) in sub-section (1), after the words “for the assessment of damages”, the words “or for the determination of the amount payable by way of interest on such arrears of rent or damages” shall be inserted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where any person from whom any cost of removal of any building or other structure

or fixture, or, as the case may be, any goods, cattle or other animal is to be recovered under sub-section (2) of section 5A, or any expenses of demolition are to be recovered under sub-section (5) of section 5B, dies before any proceeding is taken for the recovery of such cost or during the pendency thereof, the proceeding may be taken or, as the case may be, continued against the heirs or legal representatives of that person.”;

(iii) in sub-section (2), for the words “rent or damages or costs”; the words, figures, letters and brackets “rent or damages or costs of removal referred to in section 5A or expenses of demolition referred to in section 5B or interest referred to in sub-section (2A) of section 7 or any other cost” shall be substituted.

11. Amendment of section 14.—In section 14 of the principal Act,—

(a) after the words “fails to pay”, the words, brackets, figures and letter “the expenses of demolition payable under sub-section (5) of section 5B or” shall be inserted;

(b) after the words, brackets and figure “payable under sub-section (2)”, the words, brackets, figure and letter “or the interest determined under sub-section (2A)” shall be inserted;

(c) for the words “portion of such rent, damages”, the words “portion of such rent, damages, expenses, interest” shall be substituted.

12. Substitution of new section for section 15.—For section 15 of the principal Act, the following section shall be substituted, namely:—

“15. Bar of jurisdiction.—No court shall have jurisdiction to entertain any suit or proceeding in respect of—

(a) the eviction of any person who is in unauthorised occupation of any public premises, or

(b) the removal of any building, structure or fixture or goods, cattle or other animal from any public premises under section 5A, or

(c) the demolition of any building or other structure made, or ordered to be made, under section 5B, or

(d) the arrears of rent payable under sub-section (1) of section 7 or damages payable under sub-section (2), or interest payable under sub-section (2A), of that section, or

(e) the recovery of—

(i) costs of removal of any building, structure or fixture or goods, cattle or other animal under section 5A, or

(ii) expenses of demolition under section 5B, or

(iii) costs awarded to the Central Government or statutory authority under sub-section (5) of section 9, or

(iv) any portion of such rent, damages, costs of removal, expenses of demolition or costs awarded to the Central Government or the statutory authority.”

13. Amendment of section 18.—In section 18 of the principal Act, —

(i) in sub-section (2), after clause (e), the following clause shall be inserted, namely: —

“(ea) the rate at which interest shall be payable on arrears of rent specified in any order made under sub-section (1) of section 7, or damages assessed under sub-section (2) of that section;”;

(ii) in sub-section (3), for the words “in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following,” the words “in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid,” shall be substituted.

The National Security Act, 1980

AN

ACT

to provide for preventive detention in certain cases and for matters connected therewith.

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

1. Short title and extent.—(1) This Act may be called the National Security Act, 1980.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means, as respects a detention order made by the Central Government or a person detained under such order, the Central Government, and as respects a detention order made by a State Government or by an officer subordinate to a State Government or as respects a person detained under such order, the State Government;

(b) “detention order” means an order made under section 3;

(c) “foreigner” has the same meaning as in the Foreigners Act, 1946; 31 of 1946.

(d) “person” includes a foreigner;

(e) “State Government”, in relation to a Union territory, means the administrator thereof.

3. Power to make orders detaining certain persons.—(1) The Central Government or the State Government may, —

(a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India, or

(b) if satisfied with respect to any foreigner that with a view to regulating his continued presence in India or with a view to making arrangements for his expulsion from India,

it is necessary so to do, make an order directing that such person be detained.

(2) The Central Government or the State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do, make an order directing that such person be detained.

Explanation.—For the purposes of this sub-section, “acting in any manner prejudicial to the maintenance of supplies and services essential to the community” does not include “acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community” as defined in the *Explanation* to sub-section (1) of section 3 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980, and accordingly, no order of detention shall be made under this Act on any ground on which an order of detention may be made under that Act.

7 of 1980.

(3) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government is satisfied that it is necessary so to do, it may, by order in writing, direct, that during such period as may be specified in the order, such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (2), exercise the powers conferred by the said sub-section:

Provided that the period specified in an order made by the State Government under this sub-section shall not, in the first instance, exceed three months, but the State Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time.

(4) When any order is made under this section by an officer mentioned in sub-section (3), he shall forthwith report the fact to the State Government to which he is subordinate together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless, in the meantime, it has been approved by the State Government:

Provided that where under section 8 the grounds of detention are communicated by the officer making the order after five days but not later than ten days from the date of detention, this sub-section shall apply subject to the modification that, for the words “twelve days”, the words “fifteen days” shall be substituted.

(5) When any order is made or approved by the State Government under this section, the State Government shall, within seven days, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as, in the opinion of the State Government, have a bearing on the necessity for the order.

4. Execution of detention orders. —

A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973.

2 of 1974.

5. Power to regulate place and conditions of detention. — Every person in respect of whom a detention order has been made shall be liable —

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the appropriate Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention, whether within the same State or in another State, by order of the appropriate Government:

Provided that no order shall be made by a State Government under clause (b) for the removal of a person from one State to another State except with the consent of the Government of that other State.

6. Detention orders not to be invalid or inoperative on certain grounds. — No detention order shall be invalid or inoperative merely by reason —

(a) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or officer making the order, or

(b) that the place of detention of such person is outside the said limits.

7. Powers in relation to absconding persons. —

(1) If the Central Government or the State Government or an officer mentioned in sub-section (3) of section 3, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government or officer may —

(a) make a report in writing of the fact to a Metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides;

(b) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order.

(2) Upon the making of a report against any person under clause (a) of sub-section (1), the provisions of sections 82, 83, 84 and 85 of the Code of Criminal Procedure, 1973, shall apply in respect of such person and his property as if the detention order made against him were a warrant issued by the Magistrate.

2 of 1974.

(3) If any person fails to comply with an order issued under clause (b) of sub-section (1), he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his where-

abouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under sub-section (3) shall be cognizable.

2 of 1974.

8. Grounds of order of detention to be disclosed to persons affected by the order. — (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

9. Constitution of Advisory Boards. — (1) The Central Government and each State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

(2) Every such Board shall consist of three persons who are, or have been, or are qualified to be appointed as, Judges of a High Court, and such persons shall be appointed by the appropriate Government.

(3) The appropriate Government shall appoint one of the members of the Advisory Board who is, or has been, a Judge of a High Court to be its Chairman, and in the case of a Union territory, the appointment to the Advisory Board of any person who is a Judge of the High Court of a State shall be with the previous approval of the State Government concerned.

10. Reference to Advisory Boards. — Save as otherwise expressly provided in this Act, in every case where a detention order has been made under this Act, the appropriate Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 9, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer mentioned in sub-section (3) of section 3, also the report by such officer under sub-section (4) of that section.

11. Procedure of Advisory Boards. — (1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within seven weeks from the date of detention of the person concerned.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board; and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

12. Action upon the report of the Advisory Board.

(1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

(2) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of a person, the appropriate Government shall revoke the detention order and cause the person concerned to be released forthwith.

13. Maximum period of detention.—The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 12 shall be twelve months from the date of detention:

Provided that nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time.

14. Revocation of detention orders.

—(1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, a detention order may, at any time, be revoked or modified, —

(a) notwithstanding that the order has been made by an officer mentioned in sub-section (3) of section 3, by the State Government to which that officer is subordinate or by the Central Government;

(b) notwithstanding that the order has been made by a State Government, by the Central Government.

(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the Central Government or a State Government or an officer mentioned in sub-section (3) of section 3, as the case may be, is satisfied that such an order should be made.

15. Temporary release of persons detained.—(1) The appropriate Government may, at any time, direct that any person detained in pursuance of a detention

order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts and may, at any time, cancel his release.

(2) In directing the release of any person under sub-section (1), the appropriate Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

16. Protection of action taken in good faith.—

No suit or other legal proceeding shall lie against the Central Government or a State Government, and no suit, prosecution or other legal proceeding shall lie against any person, for anything in good faith done or intended to be done in pursuance of this Act

17. Act not to have effect with respect to detentions under State laws.—(1)

Nothing in this Act shall apply or have any effect with respect to orders of detention, made under any State law, which are in force immediately before the commencement of the National Security Ordinance, 1980, and accordingly every person in respect of whom an order of detention made under any State law is in force immediately before such commencement, shall be governed with respect to such detention by the provisions of such State law or where the State law under which such order of detention is made is an Ordinance (hereinafter referred to as the State Ordinance) promulgated by the Governor of that State and the State Ordinance has been replaced —

(i) before such commencement, by an enactment passed by the Legislature of that State, by such enactment; or

(ii) after such commencement, by an enactment which is passed by the Legislature of that State and the application of which is confined to orders of detention made before such commencement under the State Ordinance, by such enactment, as if this Act had not been enacted.

(2) Nothing in this section shall be deemed to bar the making, under section 3, of a detention order against any person referred to in sub-section (1) after the detention order in force in respect of him as aforesaid immediately before the com-

commencement of the National Security Ordinance, 1980, ceases to have effect for any 11 of 1980. reason whatsoever.

Explanation.—For the purposes of this section, "State law" means any law providing for preventive detention on all or any of the grounds on which an order of detention may be made under sub-section (2) of section 3 and in force in any State immediately before the commencement of the said Ordinance.

18. Repeal and saving.—(1) The National Security Ordinance, 1980, is hereby 11 of 1980. repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act, as if this Act had come into force on the 23rd day of September, 1980, and, in particular, any reference made under section 10 of the said Ordinance and pending before any Advisory Board immediately before the date on which this Act receives the assent of the President may continue to be dealt with by that Board after that date as if such Board had been constituted under section 9 of this Act.

The Payment of Bonus (Second Amendment) Act, 1980

AN ACT

further to amend the Payment of Bonus Act, 1965.

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Payment of Bonus (Second Amendment) Act, 1980.

(2) It shall be deemed to have come into force on the 21st day of August, 1980, except section 11 which shall come into force at once.

2. Amendment of section 20.—In section 21 of 1965. 2 of the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act),—

(a) in sub-clause (a) of clause (4), after the words "being a company", the brackets and words "(other than a banking company)" shall be inserted;

(b) in clause (8), after the figures "1970," the words, figures and brackets "any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980," 40 of 1980. shall be inserted.

3. Substitution of new section for section 4.—For section 4 of the principal Act, the following section shall be substituted, namely:—

"4. Computation of gross profits.—The gross profits derived by an employer from an establishment in respect of any accounting year shall—

(a) in the case of a banking company, be calculated in the manner specified in the First Schedule;

(b) in any other case, be calculated in the manner specified in the Second Schedule."

4. Amendment of section 6.—In section 6 of the principal Act,—

(a) in clause (b), for the words "development rebate or development allowance", the words "development rebate or investment allowance or development allowance" shall be substituted;

(b) in clause (d), for the words "Second Schedule", the words "Third Schedule" shall be substituted.

5. Amendment of section 7.—In section 7 of the principal Act, in clause (e), for the brackets and words "(other than development rebate or development allowance)", the brackets and words "(other than development rebate or investment allowance or development allowance)" shall be substituted.

6. Substitution of new sections for section 10.—For section 10 of the principal Act, the following sections shall be substituted, namely:—

"10. Payment of minimum bonus.—Subject to the other provisions of this Act, every employer shall be bound to pay to every employee in respect of the accounting year commencing on any day in the year 1979 and in respect of every subsequent accounting year, a minimum bonus which shall be 8.33 per cent. of the salary or wage earned by the employee during the accounting year or one hundred rupees, whichever is higher, whether or not the employer has any allocable surplus in the accounting year:

Provided that where an employee has not completed fifteen years of age at the beginning of the accounting year, the provisions of this section shall have effect in relation to such employee as if for the words "one hundred rupees", the words "sixty rupees" were substituted.

11. Payment of maximum bonus.—(1) Where in respect of any accounting year referred to in section 10, the allocable surplus exceeds the amount of minimum bonus payable to the employees under that section, the employer shall, in lieu of such minimum bonus, be bound to pay to every employee in respect of that accounting year bonus which shall be an amount in proportion to the salary or wage earned by the employee during the accounting year subject to a maximum of twenty per cent. of such salary or wage.

(2) In computing the allocable surplus under this section, the amount set on or the amount set off under the provisions of section 15 shall be taken into account in accordance with the provisions of that section."

7. Amendment of section 12.—In section 12 of the principal Act, for the words and figures "under section 10", the words and figures "under section 10 or, as the case may be, under section 11," shall be substituted.

8. Substitution of new section for section 13.—For section 13 of the principal Act, the following section shall be substituted, namely:—

"13. Proportionate reduction in bonus in certain cases.—Where an employee has not worked for

all the working days in an accounting year, the minimum bonus of one hundred rupees or, as the case may be, of sixty rupees, if such bonus is higher than 8.33 per cent. of his salary or wage for the days he has worked in that accounting year, shall be proportionately reduced.”

9. Substitution of new section for section 15.— For section 15 of the principal Act, the following section shall be substituted, namely:—

“15. Set on and set off of allocable surplus.—

(1) Where for any accounting year the allocable surplus exceeds the amount of maximum bonus payable to the employees in the establishment under section 11, then, the excess shall, subject to a limit of twenty per cent. of the total salary or wage of the employees employed in the establishment in that accounting year, be carried forward for being set on in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to be utilised for the purpose of payment of bonus in the manner illustrated in the Fourth Schedule.

(2) Where for any accounting year, there is no available surplus or the allocable surplus in respect of that year falls short of the amount of minimum bonus payable to the employees in the establishment under section 10, and there is no amount or sufficient amount carried forward and set on under sub-section (1) which could be utilised for the purpose of payment of the minimum bonus, then, such minimum amount or the deficiency, as the case may be, shall be carried forward for being set off in the succeeding accounting year and so on up to and inclusive of the fourth accounting year in the manner illustrated in the Fourth Schedule.

(3) The principle of set on and set off as illustrated in the Fourth Schedule shall apply to all other cases not covered by sub-section (1) or sub-section (2) for the purpose of payment of bonus under this Act.

(4) Where in any accounting year any amount has been carried forward and set on or set off under this section, then, in calculating bonus for the succeeding accounting year, the amount of set on or set off carried forward from the earliest accounting year shall first be taken into account.”

10. Amendment of section 16.— In section 16 of the principal Act, in sub-section (1B), for the words “Third Schedule” at both the places where they occur, the words “Fourth Schedule” shall be substituted.

11. Amendment of section 20.— Section 20 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Save as otherwise provided in sub-section (1), nothing in this Act shall apply to the employees employed by any establishment in public sector.”

12. Amendment of section 21.— In section 21 of the principal Act, in the *Explanation*, for the words and figures “sections 22, 23 and 25”, the words and figures “sections 22, 23, 24 and 25” shall be substituted.

13. Amendment of section 23.— In section 23 of the principal Act, in sub-section (1), for the word and figures “section 25”, the words and figures “sections 24 and 25” shall be substituted.

14. Insertion of new section 24.— After section 23 of the principal Act, the following section shall be inserted, namely:—

“24. Audited accounts of banking companies not to be questioned.— (1) Where any dispute of the nature specified in section 22 between an employer, being a banking company, and its employees has been referred to the said authority under that section and during the course of proceedings the accounts of the banking company duly audited are produced before it, the said authority shall not permit any trade union or employees to question the correctness of such accounts, but the trade union or the employees may be permitted to obtain from the banking company such information as is necessary for verifying the amount of bonus due under this Act.

(2) Nothing contained in sub-section (1) shall enable the trade union or the employees to obtain any information which the banking company is not compelled to furnish under the provisions of section 34A of the Banking Regulation Act, 1949.”

10 of 1949.

15. Amendment of section 27.— In section 27 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Nothing contained in this section shall enable an Inspector to require a banking company to furnish or disclose any statement or information or to produce, or give inspection of, any of its books of account or other documents, which a banking company cannot be compelled to furnish, disclose, produce or give inspection of, under the provisions of section 34A of the Banking Regulation Act, 1949.”

10 of 1949.

16. Amendment of section 30.— In section 30 of the principal Act, in sub-section (1), after the words “appropriate Government”, the words and brackets “or an officer of that Government (not below the rank of a Regional Labour Commissioner in the case of an officer of the Central Government, and not below the rank of a Labour Commissioner in the case of an officer of the State Government) specially authorised in this behalf by that Government” shall be inserted.

17. Amendment of section 31A.— In section 31A of the principal Act, in the proviso, for the words “Provided that”, the words “Provided further that” shall be substituted and before the proviso as so amended, the following proviso shall be inserted, namely:—

“Provided that any such agreement or settlement whereby the employees relinquish their right to receive the minimum bonus under section 10 shall be null and void in so far as it purports to deprive them of such right.”

18. Amendment of section 32. — In section 32 of the principal Act,

- (a) clause (vii) shall be omitted
- (b) in clause (ix), —
 - (i) sub-clause (ff) shall be omitted;
 - (ii) in sub-clause (g), after the words “financial institution”, the brackets and words “(other than a banking company)” shall be inserted.

19. Amendment of the First Schedule. — In the principal Act, —

- (a) the First Schedule shall be renumbered as the Second Schedule and in that Schedule as so renumbered.
 - (i) for the brackets, words and figure “(See section 4)”, the brackets, words, figure and letter “[See section 4(b)]” shall be substituted;
 - (ii) in the second column, against Item No. 2, for the entry “(d) Development rebate/Development allowance reserve.”, the entry “(d) Development rebate/Investment allowance/Development allowance reserve.” shall be substituted;
- (b) before that Schedule as so renumbered, following Schedule shall be inserted, namely: —

“THE FIRST SCHEDULE
[See section 4(a)]
Computation of gross profits
Accounting year ending ...

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
		Rs.	Rs.	
*1.	Net Profit as shown in the Profit and Loss Account after making usual and necessary provisions.			
2.	Add back provision for: <ul style="list-style-type: none">(a) Bonus to employees.(b) Depreciation.(c) Development Rebate Reserve.(d) Any other reserves.			See foot-note (1)
	Total of Item No. 2	Rs.		See foot-note (1)
3.	Add back also: <ul style="list-style-type: none">(a) Bonus paid to employees in respect of previous accounting years.			See foot-note (1)

* Where the profit subject to taxation is shown in the Profit and Loss Account and the provision made for taxes on income is shown, the actual provision for taxes on income shall be deducted from the profit.

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
		Rs.	Rs.	
(b)	The amount debited in respect of gratuity paid or payment to employees in excess of the aggregate of — <ul style="list-style-type: none">(i) the amount, if any, paid to, or provided for payment to, an approved gratuity fund, and(ii) the amount actually paid to employees on their retirement or on termination of their employment for any reason.			
(c)	Donations in excess of the amount admissible for income-tax.			
(d)	Capital expenditure (other than capital expenditure on scientific research which is allowed as a deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale of capital assets on which depreciation has been allowed for income-tax).			See foot-note (1)
(e)	Any amount certified by the Reserve Bank of India in terms of sub-section (2) of section 34A of the Banking Regulation Act, 1949.			10 of 1949.
(f)	Losses of, or expenditure relating to, any business situated outside India.			
	Total of Item No. 3		Rs.	
4.	Add also income, profits and gains (if any) credited directly to published or disclosed reserves, other than — <ul style="list-style-type: none">(i) capital receipts and capital profits (including profits on the sale of capital assets on which depreciation has not been allowed for income-tax);(ii) profits of, and receipts relating to, any business situated outside India;(iii) income of foreign banking companies from investments outside India.			
	Net total of Item No. 4		Rs.	
5.	Total of Item Nos. 1, 2, 3 and 4.		Rs.	
6.	Deduct: <ul style="list-style-type: none">(a) Capital receipts and capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax).			See foot-note (2)

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
		Rs.	Rs.	
(b)	Profits of, and receipts relating to, any business situated outside India.			See foot-note (2)
(c)	Income of foreign banking companies from investments outside India.			See foot-note (2)
(d)	Expenditure or losses (if any) debited directly to published or disclosed reserves, other than —			
	(i) capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax);			
	(ii) losses of any business situated outside India.			
(e)	In the case of foreign banking companies proportionate administrative (overhead) expenses of Head Office allocable to Indian business.			See foot-note (3)
(f)	Refund of any excess direct tax paid for previous accounting years and excess provision, if any, of previous accounting years, relating to bonus, depreciation, or development rebate, if written back.			See foot-note (2)
(g)	Cash subsidy, if any, given by the Government or by any body corporate established by any law for the time being in force or by any other agency through budgetary grants, whether given directly or through any agency for specified purposes and the proceeds of which are reserved for such purposes.			See foot-note (2)
Total of Item No. 6.		Rs.		
7.	Gross Profits for purposes of bonus (Item No. 5 minus Item No. 6)		Rs.	

Explanation.— In sub-item (b) of Item 3, “approved gratuity fund” has the same meaning assigned to it in clause (5) of section 2 of the Income-tax Act.

Foot-notes —

(1) If, and to the extent, charged to Profit and Loss Account.

(2) If, and to the extent, credited to Profit and Loss Account.

(3) In the proportion of Indian Gross Profit (Item No. 7) to Total World Gross Profit as per consolidated profit and Loss Account adjusted as in Item No. 2 above only).

20. Amendment of the Second Schedule.— In the principal Act, the Second Schedule shall be renumbered as the Third Schedule and in that Schedule as so renumbered, —

(a) in column (2), against Item No. 1, for the word “Company”, the words “Company, other than a banking company” shall be substituted;

(b) after Item No. 1 and the entries relating thereto, the following item and entries shall be inserted, namely: —

(1)	(2)	(3)
“2.	Banking company	(i) The dividends payable on its preference share capital for the accounting year calculated at the rate at which such dividends are payable;
		(ii) 7.5 per cent. of its paid up equity share capital as at the commencement of the accounting year;
		(iii) 5 per cent. of its reserves shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year;
		(iv) any sum which, in respect of the accounting year, is transferred by it —
		(a) to a reserve fund under sub-section (1) of section 17 of the Banking Regulation Act, 1949; or 10 of 1949.
		(b) to any reserves in India in pursuance of any direction or advice given by the Reserve Bank of India,
		whichever is higher;
		Provided that where the banking company is a foreign company within the meaning of section 591 of the Companies Act, 1956, the amount to be deducted under this Item shall be the aggregate of —
		(i) the dividends payable to its preference shareholders for the accounting year at the rate at which such dividends are payable on such amount as bears the same proportion to its total preference share capital as its total working funds in India bear to its total world working funds;
		(ii) 7.5 percent of such amount as bears the same proportion to its total paid up equity share capital as its total working funds in India bear to its total world working funds;
		(iii) 5 per cent. of such amount as bears the same proportion to its total disclosed reserves as its total working funds in India bear to its total world working funds;
		(iv) any sum which, in respect of the accounting year, is deposited by it with the Reserve Bank of India under sub-clause (ii) of clause (b) of sub-section (2) of section 11 of the Banking Regulation Act, 1949, not exceeding the amount required under the aforesaid provision to be so deposited.”;

10 of 1949.

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
		Rs.	Rs.	
(b)	Profits of, and receipts relating to, any business situated outside India.			See footnote (2)
(c)	Income of foreign banking companies from investments outside India.			See footnote (2)
(d)	Expenditure or losses (if any) debited directly to published or disclosed reserves, other than —			
	(i) capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax);			
	(ii) losses of any business situated outside India.			
(e)	In the case of foreign banking companies proportionate administrative (overhead) expenses of Head Office allocable to Indian business.			See footnote (3)
(f)	Refund of any excess direct tax paid for previous accounting years and excess provision, if any, of previous accounting years, relating to bonus, depreciation, or development rebate, if written back.			See footnote (2)
(g)	Cash subsidy, if any, given by the Government or by any body corporate established by any law for the time being in force or by any other agency through budgetary grants, whether given directly or through any agency for specified purposes and the proceeds of which are reserved for such purposes.			See footnote (2)
Total of Item No. 6.		Rs.		
7.	Gross Profits for purposes of bonus (Item No. 5 minus Item No. 6)		Rs.	

Explanation. — In sub-item (b) of Item 3, "approved gratuity fund" has the same meaning assigned to it in clause (5) of section 2 of the Income-tax Act.

Foot-notes —

(1) If, and to the extent, charged to Profit and Loss Account.

(2) If, and to the extent, credited to Profit and Loss Account.

(3) In the proportion of Indian Gross Profit (Item No. 7) to Total World Gross Profit as per consolidated profit and Loss Account adjusted as in Item No. 2 above only).

20. Amendment of the Second Schedule. — In the principal Act, the Second Schedule shall be renumbered as the Third Schedule and in that Schedule as so renumbered, —

(a) in column (2), against Item No. 1, for the word "Company", the words "Company, other than a banking company" shall be substituted;

(b) after Item No. 1 and the entries relating thereto, the following item and entries shall be inserted, namely: —

(1)	(2)	(3)
"2. Banking company	(i)	The dividends payable on its preference share capital for the accounting year calculated at the rate at which such dividends are payable;
	(ii)	7.5 per cent. of its paid up equity share capital as at the commencement of the accounting year;
	(iii)	5 per cent. of its reserves shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year;
	(iv)	any sum which, in respect of the accounting year, is transferred by it —
	(a)	to a reserve fund under sub-section (1) of section 17 of the Banking Regulation Act, 1949; or 10 of 1949.
	(b)	to any reserves in India in pursuance of any direction or advice given by the Reserve Bank of India, whichever is higher:
		Provided that where the banking company is a foreign company within the meaning of section 591 of the Companies Act, 1956, the amount to be deducted under this Item shall be the aggregate of —
	(i)	the dividends payable to its preference shareholders for the accounting year at the rate at which such dividends are payable on such amount as bears the same proportion to its total preference share capital as its total working funds in India bear to its total world working funds;
	(ii)	7.5 percent of such amount as bears the same proportion to its total paid up equity share capital as its total working funds in India bear to its total world working funds;
	(iii)	5 per cent. of such amount as bears the same proportion to its total disclosed reserves as its total working funds in India bear to its total world working funds;
	(iv)	any sum which, in respect of the accounting year, is deposited by it with the Reserve Bank of India under sub-clause (ii) of clause (b) of sub-section (2) of section 11 of the Banking Regulation Act, 1949, not exceeding the amount required under the aforesaid provision to be so deposited." 10 of 1949.

Sections

27. Protection of action taken in good faith.
28. Delegation of powers.
29. Penalties.
30. Offences by companies.
31. Power to make rules.
32. Power to remove difficulties.
33. Repeal and saving.

THE SCHEDULE.

The Maruti Limited (Acquisition and Transfer
of Undertakings) Act, 1980

AN

ACT

to provide for the acquisition and transfer of the undertakings of Maruti Limited with a view to securing the utilization of the available infrastructure, to modernise the automobile industry, to effect a more economical utilisation of scarce fuel and to ensure higher production of motor vehicles which are essential to the needs of the economy of the country and for matters connected therewith or incidental thereto.

Whereas Maruti Limited had been engaged in the manufacture and production of articles mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951, namely, 65 of 1951. automobiles;

And whereas an order has been made for the winding up of the Company and proceedings for its liquidation are pending in the High Court of Punjab and Haryana;

And whereas the undertakings of the Company have not been functioning;

And whereas it is necessary to utilise the production facilities and equipment of the undertakings of the Company so as to increase the production of the motor vehicles and generate employment in the interest of the general public;

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows: —

CHAPTER I

Preliminary

1. Short title and commencement. — (1) This Act may be called the Maruti Limited (Acquisition and Transfer of Undertakings) Act, 1980.

(2) It shall be deemed to have come into force on the 13th day of October, 1980.

2. Definitions. — In this Act, unless the context otherwise requires, —

(a) “appointed day” means the 13th day of October, 1980;

(b) “Commissioner” means the Commissioner of Payments appointed under section 15;

(c) “Company” means Maruti Limited, being a company within the meaning of the Companies Act, 1956, 1 of 1956, and having its registered office at Pallam Gurgaon Road, Gurgaon (Haryana);

(d) “notification” means a notification published in the Official Gazette;

(e) “prescribed” means prescribed by rules made under this Act;

(f) “specified date”, in relation to any provision of this Act, means such date as the Central Government may, by notification, specify for the purposes of that provision, and different dates may be specified for different provisions of this Act;

(g) words and expressions used herein and not defined but defined in the Companies Act, 1956, shall have 1 of 1956. the meanings, respectively, assigned to them in that Act.

CHAPTER II

Acquisition and transfer of the undertakings of the Company

3. Transfer to, and vesting in, the Central Government of the undertakings of the Company. — On the appointed day, the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, shall, by virtue of this Act, stand transferred to, and vest in, the Central Government.

4. General effect of vesting. — (1) The undertakings of the Company shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash in hand, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All properties as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting them, and any attachment, injunction, decree or order of any court restricting the use of such properties in any manner shall be deemed to have been withdrawn.

(3) Every mortgagee of any property which has vested under this Act in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property, shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (3) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in section 7, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under section 3, at any time before the appointed day and in force immediately before that day shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of, such undertaking and on and from the day of vesting of such undertaking under section 6 in a Government company, that company shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to that Government company and that Government company shall hold it for the remainder of the period for which that company would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Central Government, under section 3, instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the Company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or, where the undertakings of the Company are directed under section 6 to vest in a Government company, by or against that Government company.

5. Central Government or Government company not to be liable for prior liabilities. — (1) Every liability of the Company in respect of any period prior to the appointed day, shall be the liability of the Company and shall be enforceable against it and not against the Central Government, or, where the undertakings of the Company are directed under section 6 to vest in a Government company, against that Government company.

(2) For the removal of doubts, it is hereby declared that,—

(a) save as otherwise expressly provided in this section or in any other provision of this Act, no liability of the Company in respect of any period prior to the appointed day, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 6 to vest in a Government company, against that Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company, passed after the appointed day, in respect of any matter, claim or dispute which arose before that day, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 6 to vest in a Government company, against that Government company;

(c) no liability incurred by the Company before the appointed day, for the contravention of a provision of any law for the time being in force, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 6 to vest in a Government company, against that Government company.

6. Power of Central Government to direct vesting of the undertakings of the Company in a Govern-

ment company. — (1) Notwithstanding anything contained in sections 3 and 4, the Central Government may, subject to such terms and conditions as it may think fit to impose, direct, by notification, that the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in a Government company either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest of the Company, in relation to its undertakings, vest in a Government company under sub-section (1), the Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities of the Government company.

CHAPTER III

Payment of amounts

7. Payment of amount. — For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings, there shall be paid by the Central Government to the Company, in cash, and in the manner specified in Chapter VI, an amount of rupees four hundred and thirty-four lakhs.

8. Payment of further amount. — (1) The amount specified in section 7 shall carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the Central Government to the Commissioner.

(2) The amount determined in accordance with the provisions of sub-section (1) shall be paid by the Central Government to the Company in addition to the amount specified in section 7.

(3) For the removal of doubts, it is hereby declared that the liabilities of the Company, in relation to its undertakings which have vested in the Central Government under section 3, shall be discharged from the amount referred to in section 7, and also from the amount determined under sub-section (1) in accordance with the rights and interests of the creditors of the Company.

CHAPTER IV

Management, etc., of the undertakings of the Company

9. Management, etc., of the undertakings of the Company. — (1) The general superintendence, direction, control and management of the affairs and business of the undertakings of the Company, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

(a) where a direction has been made by the Central Government under sub-section (1) of section 6, vest in the Government company specified in such direction, or

(b) where no such direction has been made by the Central Government, vest in one or more Custodians appointed by the Central Government under sub-section (2),

and thereupon the Government company so specified or the Custodian or Custodians so appointed, as the case may be, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company was authorised to exercise and do in relation to its undertakings.

(2) The Central Government may appoint one or more individuals or a Government company as the Custodian or Custodians of the undertakings of the Company in relation to which no direction has been made by it under sub-section (1) of section 6.

10. Duty to deliver possession of the undertakings of the Company and documents relating thereto.—

(1) Notwithstanding any judgment, decree or order of any court, tribunal or other authority or anything contained in any law for the time being in force, the Official Liquidator of the Company or any other person, in whose possession or custody or under whose control the undertakings of the Company or any part thereof may be, shall forthwith deliver possession of the undertakings of the Company or any part thereof to the Central Government, or where the undertakings of the Company are vested under section 6 in a Government company, to that Company.

(2) On the vesting of the management of the undertakings of the Company in a Government company or on the appointment of the Custodian or Custodians, the Official Liquidator of the Company or any other person who has, on the appointed day, in his possession or custody or under his control any books, documents or other papers relating to the undertakings of the Company immediately before such vesting or appointment, shall be bound to deliver the said books, documents or other papers to the Government company or the Custodian or Custodians or to such person as the Central Government or the Government company, as the case may be, may specify in this behalf.

(3) The Central Government may take or cause to be taken all necessary steps for securing possession of the undertakings which have vested in it under section 3.

(4) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Government company or the Custodian or Custodians, and such Government company, Custodian or Custodians may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the Company shall be conducted or in relation to any other matter arising in the course of such management.

(5) The Custodian or Custodians shall receive from the funds of the undertakings of the Company such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

11. Duty to furnish particulars.— (1) The Company shall, within such period as the Central Government may allow in this behalf, furnish to that Government or to the Government company a complete

inventory of all the properties and assets of the Company as on the appointed day pertaining to the undertakings which have vested in the Central Government or the Government company, as the case may be.

(2) So much of the obligation of the Company under sub-section (1) as relates to the properties and assets of the Company in the possession, custody or control of the Official Liquidator of the Company shall be discharged by him.

12. Accounts and audit.— The Custodian or Custodians of the undertakings of the Company shall maintain an account of the undertakings of the Company in such form and manner and subject to such conditions as may be prescribed and the provisions of the Companies Act, 1956, shall apply to the audit of the accounts so maintained as they apply to the audit of the accounts of a company. 1 of 1956.

CHAPTER V

Provisions relating to the employees of the Company

13. Employment of certain employees to continue.— (1) Every person who has been, immediately before the appointed day, employed in any of the undertakings of the Company shall become, —

(a) on and from the appointed day, an employee of the Central Government; and

(b) where the undertakings of the Company are directed under sub-section (1) of section 6, to vest in a Government company, an employee of such Government company on and from the date of such vesting,

and shall hold office or service under the Central Government or the Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the Government company, as the case may be.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, 14 of 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any undertaking of the Company to the Central Government or the Government company shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(3) Where, under the terms of any contract of service or otherwise, any person, whose services become transferred to the Central Government or the Government company by reason of the provisions of this Act, is entitled to any arrears of salary or wages or any payments for any leave not availed of or any other payment, not being payment by way

of gratuity or pension, such person may enforce his claim against the Company, but not against the Central Government or the Government company.

14. Provident fund and other funds.— (1) Where the company has established a provident fund, superannuation fund, welfare fund or any other fund for the benefit of the persons employed in any of the undertakings of the Company, the monies relatable to the officers or other employees, whose services have become transferred, by or under this Act, to the Central Government or the Government company, shall, out of the monies standing, on the appointed day, to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and vest in, the Central Government or the Government company, as the case may be.

(2) The monies which stand transferred under sub-section (1) to the Central Government or the Government company, as the case may be, shall be dealt with by that Government or that Government company in such manner as may be prescribed.

CHAPTER VI

Commissioner of Payments

15. Appointment of Commissioner of Payments.— (1) The Central Government shall, for the purpose of disbursing the amounts payable to the Company under section 7 and section 8, by notification, appoint a Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

16. Payment by the Central Government to the Commissioner.— (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company—

(a) an amount equal to the amount specified in section 7, and

(b) an amount equal to the amount payable to the Company under section 8.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Records shall be maintained by the Commissioner in respect of the undertakings of the Company

in relation to which payment has been made to him under this Act.

(4) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the Company.

17. Certain powers of the Central Government or Government company.— (1) The Central Government or the Government company, as the case may be, shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Company, in relation to its undertakings which have vested in the Central Government or the Government company, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The Central Government or the Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by it after the appointed day for discharging any liability of the Company in relation to any period prior to the appointed day; and every such claim shall have priority in accordance with the priorities attaching, under this Act, to the matter in relation to which such liabilities has been discharged by the Central Government or the Government company.

(3) Save as otherwise provided in this Act, the liabilities of the Company in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

18. Claims to be made to the Commissioner.— Every person having a claim against the Company shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

19. Priority of claims.— The claims arising out of the matters specified in the Schedule shall have priorities in accordance with the following principles, namely:—

(a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III, and so on;

(b) the claims specified in each of the categories shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly; and

(c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

20. Examination of claims.— (1) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order of priorities.

(2) If, on examination of the claims, the Commissioner is of opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claims in respect of such lower category.

21. Admission or rejection of claims.— (1) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of any daily newspaper in the English language having circulation in the major part of the country and one issue of any daily newspaper in such regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the period specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sittings and shall, for the purpose of making an investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

5 of 1908.

45 of 1860.

2 of 1974.

(7) A claimant, who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, the appeal shall lie to the High Court of Punjab and Haryana and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

22. Disbursement of money by the Commissioner to claimants.— After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due, and, on such payment, the liability of the Company in respect of any claim relating to the undertakings of the Company shall stand discharged.

23. Disbursement of amounts to the Company.— (1) If, out of the monies paid to him in relation to the undertakings of the Company, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.

(2) Where the possession of any machinery, equipment or other property, has vested in the Central Government or a Government company under this Act, but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Central Government or the Government company to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by the Company immediately before the appointed day.

24. Undisbursed or unclaimed amount to be deposited to the general revenue account.— Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner, before his office is finally wound up, to the general revenue account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for payment of the claim, being treated as an order for the refund of revenue.

CHAPTER VII

Miscellaneous

25. Act to have overriding effect.— The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

26. Contracts to cease to have effect unless ratified by Central Government or Government company.— Every contract entered into by the Company in relation to its undertakings, which has vested in the Central Government under section 3, for any service, sale or supply and in force immediately before the appointed day, shall, on and from the expiry of one hundred and eighty days from the appointed day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or

Government company, in which such undertakings have been vested under this Act, and in ratifying such contract, the Central Government or such Government company may make such alteration or modification therein as it may think fit:

Provided that the Central Government or such Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract —

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the Central Government or such Government company, and

(b) except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

27. Protection of action taken in good faith. — (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the Government company or the Custodian or any officer or other person authorised by the Central Government or the Government company for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the Government company or the Custodian or any officer or other person authorised by the Central Government or the Government company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

28. Delegation of powers. — (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by this section, section 31 and section 32, may also be exercised by such person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

29. Penalties. — Any person who, —

(a) having in his possession, custody or control any property forming part of any undertakings of the Company, wrongfully withholds such property from the Central Government or the Government company; or

(b) wrongfully obtains possession of, or retains, any property forming part of, the undertakings of the Company; or

(c) wilfully withholds or fails to furnish to the Central Government or the Government company or to any person or body of persons specified by that Government or such Government company, as the case may be, any document or inventory relating to the undertakings of the Company, which may be in his possession, custody or control; or

(d) fails to deliver to the Central Government or the Government company or to any person or body of persons specified by that Government or Government company, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of the Company; or

(e) wrongfully removes or destroys any property forming part of the undertakings of the Company; or

(f) prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

30. Offences by companies. — (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. — For the purposes of this section, —

(a) "company" means any body corporate and includes a firm or other association of individuals;

(b) "director", in relation to a firm, means a partner in the firm.

31. Power to make rules. — (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(a) the time within which, and the manner in which, an intimation shall be given to the Commissioner under sub-section (3) of section 4;

(b) the form and the manner in which, and the conditions subject to which, the Custodian or Custodians shall maintain accounts under section 12;

(c) the manner in which the monies in any provident fund or other fund under section 14 shall be dealt with;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

32. Power to remove difficulties.— If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

33. Repeal and saving.— (1) The Maruti Limited (Acquisition and Transfer of Undertakings) Ordinance, 1980, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

(See sections 19, 20, 21 and 23)

Order of priorities for the discharge of liabilities of the Company

Category I—

(a) Employees' dues on account of unpaid salaries, wages, provident fund, Employees' State Insurance contribution or premium relating to the Life Insurance Corporation of India or any other amounts due to the employees;

(b) Revenues, taxes, cesses, rates or other dues to the Central Government, State Government and local authorities or the State Electricity Board.

Category II—

Amounts due to the Government of Haryana towards the cost of land.

Category III—

Secured loans with interest.

Category IV—

(a) Deposits received from the public or from the members of the Company;

(b) Deposits towards dealership;

(c) Any credit availed of for purposes of trade or manufacturing operations;

(d) Share application monies where shares were not allotted.

Category V—

Any other dues.

The Hind Cycles Limited and Sen-Raleigh Limited (Nationalisation) Act, 1980

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THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE THIRD SCHEDULE.

The Hind Cycles Limited and Sen-Raleigh Limited
(Nationalisation) Act, 1980

AN
ACT

to provide for the acquisition of the undertakings of Hind Cycles Limited, and Sen-Raleigh Limited, with a view to securing the proper management of such undertakings so as to observe the interests of the general public by ensuring the continued manufacture, production and distribution of bicycles and their component parts and accessories which are essential to the needs of the economy of the country and for matters connected therewith or incidental thereto.

Whereas Hind Cycles Limited and Sen-Raleigh Limited had been engaged in the manufacture and production of articles mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951, namely, bicycles and their component parts and accessories; 65 of 1951.

And Whereas the management of the undertakings of Hind Cycles Limited and Sen-Raleigh Limited were taken over by the Central Government under the provisions of the Industries (Development and Regulation) Act, 1951; 65 of 1951.

And Whereas it is necessary to acquire the undertakings of Hind Cycles Limited and Sen-Raleigh Limited to ensure that the interests of the general public are served by the continuance, by the undertakings of the two companies, of the manufacture, production and distribution of the aforesaid articles which are essential to the needs of the economy of the country;

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title and commencement.— (1) This Act may be called the Hind Cycles Limited and Sen-Raleigh Limited (Nationalisation) Act, 1980.

(2) It shall be deemed to have come into force on the 15th day of October, 1980.

2. Definitions.— In this Act, unless the context otherwise requires,—

(a) “appointed day” means the 15th day of October, 1980;

(b) “Commissioner” means the Commissioner of Payments appointed under section 15;

(c) “Custodian” means the Custodian appointed under sub-section (2) of section 9 to take over, or carry on, the management of the undertakings of either, or both, of the two companies;

(d) “notification” means a notification published in the Official Gazette;

(e) “prescribed” means prescribed by rules made under this Act;

(f) “Sen-Raleigh Limited” includes Sen and Pandit Industries Limited, Ancillary Industries

(Lugs) Private Limited, Ancillary Industries (Forgings) Private Limited, Ancillary Industries (Cranks) Private Limited and Naokhali Machine Tools Limited, all having their registered offices at 1, Middleton Street, Calcutta;

(g) “specified date”, in relation to any provision of this Act, means such date as the Central Government may, by notification, specify for the purposes of that provision and different dates may be specified for different provisions of this Act;

(h) “two companies” means Hind Cycles Limited and Sen-Raleigh Limited, being companies as defined in the Companies Act, 1956, and having their registered offices at Birlagram, Nagda (Madhya Pradesh), and 1, Middleton Street, Calcutta, respectively; 1 of 1956.

(i) words and expressions used herein and not defined but defined in the Companies Act, 1956, shall have the meanings, respectively, assigned to them in that Act. 1 of 1956.

CHAPTER II

Acquisition of the undertakings of the two companies

3. Transfer to, and vesting in, Central Government of the undertakings of the two companies.— On the appointed day, the undertakings of each of the two companies, and the right, title and interest of each of the two companies in relation to such undertakings, shall, by virtue of this Act, stand transferred to, and shall vest in, the Central Government.

4. General effect of vesting.— (1) The undertakings of each company referred to in section 3 shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, cheques, demand drafts, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of such company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto, and shall also be deemed to include the liabilities specified in sub-section (2) of section 5.

(2) All properties as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting them, and any attachment, injunction, decree or order of any court restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall be deemed to have been withdrawn.

(3) Every mortgagee of any property which has vested under this Act in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commis-

sioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (3) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified, in relation to the company owning such property, in the First Schedule, and also out of the amounts determined under section 8, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to either of the two companies in relation to any undertaking which has vested in the Central Government under section 3 at any time before the appointed day and in force immediately before that day shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertaking, and, on and from the date of vesting of such undertaking under section 6 in a Government company, such Government company shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such Government company and such Government company shall hold it for the remainder of the period for which the company to which it was granted would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any matter specified in sub-section (2) of section 5, in respect of any undertaking of either of the two companies, instituted or preferred by or against either of the two companies, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of either of the two companies or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in Government companies, by or against the concerned Government company.

5. Owners of the two companies to be liable for certain prior liabilities. — (1) Every liability, other than the liability specified in sub-section (2), of each of the two companies in respect of any period prior to the appointed day, shall be the liability of the concerned company and shall be enforceable against it and not against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in Government companies, against the concerned Government company.

(2) Any liability arising in respect of materials supplied to either of the two companies after the management of the undertakings of the company had been taken over by the Central Government shall, on and from the appointed day, be the liability of the Central Government or of the concerned Government company aforesaid and shall be discharged

by that Government or Government company, as and when repayment for such supplies becomes due and payable.

(3) For the removal of doubts, it is hereby declared that —

(a) save as otherwise expressly provided in this section or in any other provision of this Act, no liability, other than the liability specified in sub-section (2), of either of the two companies in relation to its undertakings in respect of any period prior to the appointed day, shall be enforceable against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in Government companies, against the concerned Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of either of the two companies, passed on or after the appointed day, in respect of any matter, claim or dispute, not being a matter, claim or dispute in relation to any matter referred to in sub-section (2), which arose before that day, shall be enforceable against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in Government companies, against the concerned Government company;

(c) no liability incurred by either of the two companies before the appointed day, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in Government companies, against the concerned Government company.

6. Power of Central Government to direct vesting of the undertakings of the two companies in two Government companies. — (1) Notwithstanding anything contained in sections 3 and 4, the Central Government may, subject to such terms and conditions as it may think fit to impose, direct, by notification, that each of the undertakings of the two companies and the right, title and interest of each of the two companies in relation to their respective undertakings which have vested in that Government under section 3, and such of the liabilities of each of the two companies as are specified in sub-section (2) of section 5, shall, instead of continuing to vest in the Central Government, vest in two Government companies either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification

(2) Where the right, title and interest, and the liabilities referred to in sub-section (2) of section 5, of each of the two companies, in relation to its undertakings, vest in two Government companies under sub-section (1), the Government companies shall, on and from the date of such vesting, be deemed to have become the owners in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government companies.

CHAPTER III

Payment of amounts

7. Payment of amount. — For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of each of the two companies and the right, title and interest of each of the two companies in relation to such undertakings, there shall be given by the Central Government to each of the companies, in cash and in the manner specified in Chapter VI, an amount equal to the amount specified against the name of such company in the First Schedule.

8. Payment of further amounts. — (1) For the deprivation of the two companies of the management of their undertakings, there shall be given by the Central Government to each of the companies in cash, an amount calculated at the rate specified against the name of such company in the Second Schedule for the period commencing on the date on which the management of the undertakings of such company was taken over in pursuance of the orders made by the Central Government under the provisions of the Industries (Development and Regulation) Act, 1951 and ending on the appointed day.

65 of 1951.

(2) The amount specified in section 7 and the amount calculated in accordance with the provisions of sub-section (1) shall carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amount made by the Central Government to the Commissioner.

(3) The amounts determined in accordance with the provisions of sub-sections (1) and (2) shall be given by the Central Government to the two companies in addition to the amount specified in the First Schedule.

CHAPTER IV

Management, etc., of the Undertakings of the two companies

9. Management, etc., of the undertakings of the two companies. — (1) The general superintendence, direction, control and management of the affairs and business of the undertakings of each of the two companies, the right, title and interest in relation to which have vested in the Central Government under section 3, shall, —

(a) where a direction has been made by the Central Government under sub-section (1) of section 6, vest in the Government company specified in such direction; or

(b) where no such direction has been made by the Central Government, vest in one or more Custodians appointed by the Central Government under sub-section (2),

and thereupon the Government company so specified or the Custodian or Custodians so appointed, as the case may be, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as either, or both, of the two companies is, or are, authorised to exercise and do in relation to its or their undertakings.

(2) The Central Government may appoint one or more individuals or a Government company as the Custodian or Custodians of the undertakings of either, or both, of the two companies in relation to which no direction has been made by it under sub-section (1) of section 6.

(3) The Custodian or Custodians so appointed shall receive, from the funds of the undertakings of the two companies, such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

10. Duty of persons in charge of management of the undertakings of the two companies to deliver all assets, etc. — (1) On the vesting of the management of the undertakings of the two companies in Government companies or on the appointment of a Custodian or Custodians, all persons in charge of the management of the undertakings of either of the two companies immediately before such vesting or appointment, shall be bound to deliver to the concerned Government company or the Custodian or Custodians, as the case may be, all assets, books of account, registers or other documents in their custody relating to the undertakings.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Government companies or the Custodian or Custodians, and such Government companies or the Custodian or Custodians may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the two companies shall be conducted or in relation to any other matter arising in the course of such management.

11. Duty of persons to account for assets, etc., in their possession. — (1) Any person who has, on the appointed day, in his possession or under his control any assets, books, documents or other papers relating to any undertaking owned by the two companies, which have vested in the Central Government or in Government companies under this Act, and which belong to the two companies, or would have so belonged, if the undertakings owned by the two companies had not vested in the Central Government or such Government companies, shall be liable to account for the said assets, books, documents and other papers to the Central Government or the Government companies and shall deliver them up to the Central Government or such Government companies or to such person or persons as the Central Government or the concerned Government company may specify in this behalf.

(2) The Central Government or the Government companies aforesaid may take or cause to be taken all necessary steps for securing possession of the undertakings of the two companies which have vested in the Central Government or the Government companies under this Act.

(3) The two companies shall within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all their properties and assets, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under section 3, and, for this purpose, the Central Government or the Government companies aforesaid shall afford to the two companies all reasonable facilities.

12. Accounts and audit. — The Custodian or Custodians of the undertakings of either, or both, of the two companies shall maintain an account of the undertakings of the concerned company or companies in such form and manner and under such conditions as may be prescribed and the provisions of the Companies Act, 1956, shall apply to the audit of the accounts so maintained as they apply to the audit of the accounts of a company. 1 of 1956.

CHAPTER V

Provisions relating to employees of the two companies

13. Continuance of employees. — (1) Every person who has been, immediately before the appointed day, employed in any undertaking of either of the two companies shall become,—

(a) on and from the appointed day, an employee of the Central Government, and

(b) where the undertakings of the two companies are directed, under sub-section (1) of section 6, to vest in Government companies, an employee of the concerned Government company on and from the date of such vesting or transfer,

and shall hold office or service under the Central Government or the concerned Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the concerned Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the concerned Government company, as the case may be.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any undertaking of either of the two companies, to the Central Government or a Government company, shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority. 14 of 1947.

14. Provident fund and other funds. — (1) Where either of the two companies has established a provident fund, superannuation, welfare or other fund for the benefit of the persons employed in any of its undertakings, the moneys relatable to the officers or other employees whose services have become transferred by or under this Act to the Central Government or a Government company shall, out of the moneys standing, on the appointed day, to the credit of such provident fund, superannuation, welfare or other, fund, stand transferred to, and vest in, the Central Government or the concerned Government company, as the case may be.

(2) The moneys which stand transferred under sub-section (1) to the Central Government or the

Government company, as the case may be, shall be dealt with by that Government or Government company in such manner as may be prescribed.

CHAPTER VI

Commissioner of Payments

15. Appointment of Commissioner of Payments. —

(1) The Central Government shall, for the purpose of disbursing the amounts payable under sections 7 and 8 to each of the two companies, by notification, appoint a Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

16. Payment by Central Government to the Commissioner. — (1) The Central Government shall, within thirty days from the specified date, pay in cash to the Commissioner, for payment to each of the two companies,—

(a) an amount equal to the amount specified against the name of such company in the First Schedule; and

(b) an amount equal to the amount payable to each of the two companies under section 8.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner in the Public Account of India and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Separate records shall be maintained by the Commissioner in respect of the undertakings of each of the two companies in relation to which payments have been made to him under this Act.

(4) Interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the two companies.

17. Certain powers of Central Government or Government companies. — (1) The Central Government or the concerned Government company, as the case may be, shall be entitled to receive, up to the specified date, to the exclusion of all other persons, any money due to either of the two companies in relation to the undertakings which have vested in the Central Government or the Government company and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The Central Government or the concerned Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by that Government or Government company after the appointed day, for discharging any liability of either of the two companies, not being any liability specified in sub-section (2) of section 5, in relation to any period prior to the appointed day, and every such claim shall have priority, in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the Central Government or the Government company.

(3) Save as otherwise provided in this Act, the liabilities of either of the two companies in respect of any transaction prior to the appointed day which have not been discharged on or before the specified date shall be the liabilities of the respective company.

18. Claims to be made to the Commissioner.— Every person having a claim against either of the two companies with regard to any of the matters specified in the Third Schedule pertaining to any undertaking owned by it shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days, but not thereafter.

19. Priority of claims.— The claims made under section 18 shall have priorities in accordance with the following principles, namely:—

(a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III, and so on;

(b) the claims specified in each of the categories shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly; and

(c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

20. Examination of claims.— (1) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of priorities specified in the Third Schedule and examine the same in accordance with such order.

(2) If, on examination of the claims, the Commissioner is of opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claims in respect of such lower category.

21. Admission or rejection of claims.— (1) After examining the claims with reference to the priorities specified in the Third Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claim.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue

of any daily newspaper in the English language having circulation in the major part of the country and in one issue of any daily newspaper in such regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the period specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the period specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the concerned company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sitting and shall, for the purpose of making any investigation under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a Civil Court for the purposes of section 195, and Chapter XXVI, of the Code of Criminal Procedure, 1973

(7) A claimant who is dissatisfied with the decision of the Commissioner, may prefer an appeal against such decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the concerned company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall lie to the High Court exercising jurisdiction over the place in which the registered office of the concerned company is situated and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

22. Disbursement of money by the Commissioner. After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due, and on such payment, the liability of each of the two companies in respect of such claim shall stand discharged.

23. Disbursement of amount to the two companies. (1) If, out of the moneys paid to him in relation to the undertakings of either of the two companies, there is a balance left after meeting the liabilities as specified in the Third Schedule, the Commissioner shall disburse such balance to the concerned company.

(2) Where the possession of any machinery, equipment or other property has vested in the Central Government or a Government company under this Act, but such machinery, equipment or other property does not belong to either of the two companies, it shall be lawful for the Central Government or the concerned Government company to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by either of the companies immediately before the appointed day.

24. Undisbursed or unclaimed amount to be deposited with the general revenue account.—Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner, before his office is finally wound up, to the general revenue account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for the payment of the claim being treated as an order for the refund of revenue.

CHAPTER VII

Miscellaneous

25. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

26. Contracts to cease to have effect unless ratified by Central Government or Government companies.—Every contract entered into by either of the two companies in relation to any of its undertakings which has vested in the Central Government under section 3 for any service, sale or supply, and in force immediately before the appointed day, shall, on and from the expiry of a period of thirty days from the appointed day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or the Government company concerned, in which such undertaking has been vested under this Act and in ratifying such contract, the Central Government or such Government company may make such alteration or modification therein as it may think fit:

Provided that the Central Government or such Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the Central Government or such Government company; and

(b) except after giving the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

27. Penalties.—Any person who,—

(a) having in his possession, custody or control any property forming part of any undertaking of either of the two companies, wrongfully withholds such property from the Central Government or the Government company concerned; or

(b) wrongfully obtains possession of, or retains, any property forming part of any undertaking of either of the two companies; or

(c) wilfully withholds or fails to furnish to the Central Government or the Government company concerned or any person or body of persons specified by that Government or such Government company, any document relating to such undertaking, which may be in his possession, custody or control; or

(d) fails to deliver to the Central Government or the Government company concerned or any person or body of persons specified by that Government or Government company, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of either of the two companies; or

(e) wrongfully removes or destroys any property forming part of any undertaking of either of the two companies or prefers any claim which he knows or has reason to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

28. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

29. Protection of action taken in good faith.— (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the Custodian or the Government companies or other person authorised by that Government or Government companies for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the Custodian or the Government companies or any officer or other person authorised by those companies for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

30. Delegation of powers.— (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by this section and sections 31 and 32 may also be exercised by such person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

31. Power to make rules.— (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time within which, and the manner in which, an intimation referred to in sub-section (3) of section 4 shall be given;

(b) the form and manner in which, and the conditions under which, the Custodian or Custodians shall maintain the accounts as required by section 12;

(c) the manner in which the moneys in any provident fund or other fund, referred to in section 14, shall be dealt with;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment

shall be without prejudice to the validity of anything previously done under that rule.

32. Power to remove difficulties.— If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

33. Repeal and saving.— (1) The Hind Cycles Limited and Sen-Raleigh Limited (Nationalisation) Ordinance, 1980, is 16 of 1980, hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE FIRST SCHEDULE

[See sections 4(4), 7, 8(3) and 16(1) (a)]

Sl. No.	Name of the company	Amount (Rupees in lakhs)
1.	Hind Cycles Limited	241.47
2.	Sen-Raleigh Limited	708.00
3.	Sen and Pandit Industries Limited	23.96
4.	Ancillary Industries (Lugs) Private Limited	1.31
5.	Ancillary Industries (Forgings) Private Limited	1.44
6.	Ancillary Industries (Cranks) Private Limited	2.33
7.	Naokhali Machine Tools Limited	2.87

THE SECOND SCHEDULE

[See section 8(1)]

Sl. No.	Name of the company	Rate per annum (Rupees)
1.	Hind Cycles Limited	8,000
2.	Sen-Raleigh Limited	8,000
3.	Sen and Pandit Industries Limited	500
4.	Ancillary Industries (Lugs) Private Limited	500
5.	Ancillary Industries (Forgings) Private Limited	500
6.	Ancillary Industries (Cranks) Private Limited	500

THE THIRD SCHEDULE

[See sections 18, 20(1), 21(1) and 23(1)]

Order of priorities for the discharge of liabilities of the two companies

Post-take-over management period

Category I—

(a) Wages, salaries and other dues payable to the employees of the companies.

(b) Deductions made from the salaries and wages of the employees for provident fund, the Employees' State Insurance Fund, premium relating to the Life Insurance Corporation of India or for any other purpose.

Category II —

Principal amount of loans advanced by —

- (i) the Central Government
- (ii) a State Government
- (iii) Banks and financial institutions
- (iv) any other sources.

Category III —

(a) Arrears in relation to contributions to be made by the companies to provident fund, the Employees' State Insurance Fund or under any other law for the time being in force providing for such contributions.

(b) Any credits availed of by the companies for the purpose of carrying on any trading or manufacturing operations, other than those specified in sub-section (2) of section 5.

(c) Any dues of State Electricity Boards or other Government or semi-Government institutions against supply of goods or services, other than those specified in sub-section (2) of section 5.

(d) Arrears of interest on loans and advances.

Category IV —

(a) Revenue, taxes, cesses, rates or other dues to the Central Government, a State Government or any local authority.

(b) Any other dues.

Pre-take-over management period

Category V —

(a) Wages, salaries and other dues payable to the employees of the companies.

(b) Deductions made from the salaries and wages of the employees for provident fund, the Employees' State Insurance Fund, premium relating to the Life Insurance Corporation of India or for any other purpose.

Category VI —

(a) Principal amount of secured loans advanced by —

- (i) the Central Government
- (ii) a State Government
- (iii) Banks and financial institutions.

(b) Arrears in relation to contributions to be made by the companies to provident fund, the Employees' State Insurance Fund or under any

other law for the time being in force providing for such contributions.

Category VII —

Principal amount of unsecured loans advanced by —

- (i) the Central Government
- (ii) a State Government
- (iii) Banks and financial institutions.

Category VIII —

(a) Any credits availed of by the companies for the purpose of carrying on any trading or manufacturing operations.

(b) Any dues of State Electricity Boards or other Government or semi-Government institutions against supply of goods or services.

(c) Arrears of interest on loans and advances.

(d) Revenue, taxes, cesses, rates or other dues to the Central Government, a State Government or any local authority.

(e) Any other loans or dues.

The Forest (Conservation) Act, 1980

AN

ACT

to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows: —

1. Short title, extent and commencement. — (1) This Act may be called the Forest (Conservation) Act, 1980.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 25th day of October, 1980.

2. Restriction on the dereservation of forests or use of forest land for non-forest purpose. — Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing —

(i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) that any forest land or any portion thereof may be used for any non-forest purpose.

Explanation. — For the purposes of this section "non-forest purpose" means breaking up or clearing of any forest land or portion thereof for any purpose other than reafforestation.

3. Constitution of Advisory Committee. — The Central Government may constitute a Committee

consisting of such number of persons as it may deem fit to advise that Government with regard to —

- (i) the grant of approval under section 2; and
- (ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government.

4. Power to make rules. — (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately

following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

5. Repeal and saving. — (1) The Forest (Conservation) Ordinance, 1980 17 of 1980, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.